

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

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U.S. DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION
NOV 19 2004
CLERK OF COURT

DAVID FRANCO,
Plaintiff,

vs.

KYTEL INTERNATIONAL GROUP, INC.,
GREGORY KILEY, EDWARD KILEY and
DON BOSCO,
Defendants.

CIVIL ACTION No.
04-CV-12159-GAO

DEFENDANTS' MOTION TO DISMISS

Defendants Kytel International Group, Inc., Gregory Kiley, Edward Kiley and Don Bosco ("Defendants") jointly move to dismiss the complaint on the grounds that:

1. The court lacks personal jurisdiction over the Defendants; and
2. The action should be dismissed for improper venue, based on plaintiff's express agreement that New York courts have exclusive jurisdiction of his claims, or, alternatively, the action should be transferred to the United States District Court for the Southern District of New York under 28 U.S.C. § 1406(a).

The Defendants move, in the alternative to dismissal, for transfer to the Southern District of New York under the doctrine of *forum non conveniens* pursuant to 28 U.S.C. § 1404(a).

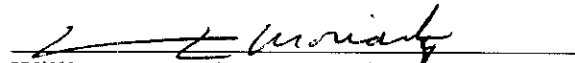
In support of the motion, the Defendants submit their *Memorandum of Law in Support of Defendants' Motion to Dismiss, or, in the Alternative, Transfer This Action* and the Affidavits of Gregory Kiley, Edward Kiley, and Don Bosco.

REQUEST FOR ORAL ARGUMENT

Defendants request oral argument.

KYTEL INTERNATIONAL GROUP, INC.
GREGORY KILEY, EDWARD KILEY and
DON BOSCO,

By Their Attorneys,

A handwritten signature in black ink, appearing to read "W. Moriarty", is written over a horizontal line.

William R. Moriarty (BBO#563769)

Gustavo del Puerto (BBO#568056)

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